

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
(Charlotte Division)
CIVIL NO. 3:11-CV-129

FILED
CHARLOTTE, NC

JAN 03 2012

U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

JOSEPH SAVITSKIE, individually and on
behalf of all persons similarly situated,

Plaintiff,

v.

ZENTA MORTGAGE SERVICES LLC,

Defendant.

STIPULATION AND
REGARDING MEDIATION

ORDER

Plaintiff and Opt-In Plaintiffs, and Zenta Mortgage Services LLC ("Zenta"), through their respective undersigned counsel, hereby stipulate and agree as follows:

1. The parties have met and conferred, and have agreed to a framework for exploring settlement.
2. So that the parties can engage in meaningful, good faith and informed settlement discussions, Zenta agrees to produce to Plaintiff's counsel by January 31, 2012, the information set forth below, to the extent it exists, for the time period from March 14, 2008 to December 31, 2011 (the "Claims Period"), subject to a confidentiality and protective order to be agreed to between the parties and entered by the Court:
 - a. A list of all names of all Mortgage Underwriters and employees in similarly titled positions (hereinafter, "Mortgage Underwriters") employed by Zenta during the Claims Period;
 - b. A computer readable database setting forth the dates of employment, available payroll data, and available records of hours worked by the Mortgage Underwriters during the Claims Period;

- c. A computer readable database and any documents showing the schedules and time records for Mortgage Underwriters during the Claims Period;
- d. Documents summarizing or describing the policies and procedures for compensating Mortgage Underwriters in the form of wages, commissions, bonuses, overtime compensation, and all other forms of compensation during the Claims Period;
- e. Documents identifying the policies or practices applicable during the Claims Period to Mortgage Underwriters with respect to: (a) time-keeping; (b) compensation; (c) overtime; (d) when they must begin or end their work day; (e) meal breaks; and (f) rest breaks;
- f. Documents regarding time-keeping systems, policies and procedures for Mortgage Underwriters during the Claims Period;
- g. Documents summarizing or describing the job duties of Mortgage Underwriters during the Claims Period; and
- h. The complete personnel files of all Opt-In Plaintiffs who have joined this litigation to date.

3. Similarly, Plaintiff and Opt-In Plaintiffs agree to produce to Zenta's counsel by January 31, 2012, the documents and information set forth below, to the extent it exists:

- a. Resumes prepared by or on behalf of any named or opt-in plaintiff since at least January 2008;
- b. Documents in Plaintiffs' possession that relate to their employment in any way with Zenta, including but not limited to documents listed in 2(d)-(g) above in Plaintiffs' possession, time records kept by Plaintiffs, and any

documents reflecting Plaintiffs work, sick, personal, and vacation schedules;

- c. Any statements taken from any Opt-In Plaintiff or potential Opt-In Plaintiff; and
- d. Any documents that Plaintiffs have or would have identified in their Rule 26(a)(1) disclosures.

4. The parties agree to select a mutually agreeable mediator and to participate in a mediation commencing on a mutually agreeable date during February or March, 2012. Prior to the mediation, and pursuant to a schedule agreed to by the mediator and the parties, the parties agree that they shall submit and disclose to each other and the mediator, detailed mediation statements setting forth the facts and relevant law supporting their claims and defenses and a calculation of the alleged class damages.

5. To accommodate the parties' settlement discussions, Zenta agrees that with respect to Plaintiff's claims under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, the statute of limitations is hereby tolled for all potential opt-in plaintiffs (using the class definition set forth in Plaintiff's Motion to Facilitate Notice Under 29 U.S.C. 216(b), filed on June 30, 2011 (Doc. Nos. 16 and 17), from the date of this stipulation until April 1, 2012.

6. To accommodate the parties' settlement discussions, the case shall be stayed until April 1, 2012, except that the parties agree that Plaintiff may file a motion or stipulation to substitute one of the current opt-in Plaintiffs as a named Plaintiff, given that the current named Plaintiff, Joseph Savitskie, passed away on November 22, 2011, and that Plaintiff may also file an appropriate Suggestion of Death.

7. By April 1, 2012, the parties shall file a joint report apprising the Court as to the status of their settlement discussions and outcome of their mediation, and if a settlement in principle has been reached, a schedule for the presentation of the settlement to the Court for its approval.

WHEREFORE, the parties respectfully request that the Court enter this stipulation as an Order, and stay this case for purposes of mediation until April 1, 2012.

December 22, 2011

Respectfully submitted,

s/ Shanon J. Carson

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Attorneys for Defendant
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SO ORDERED this 30 day of Jan, 2012


UNITED STATES DISTRICT JUDGE